**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

RIAL-18420

First named inventor: Charles D. Harris

Application No.: 09/870,078

Art Unit: 3728

Filed: May 30, 2001

Examiner: Shian T. Luong

Title: Disc-Media Storage Case and Printed-Media Storage Tray

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions
Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a
notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the
expiration date of the period set for reply in the Office notice or action plus an extensions of time
actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee☒ Small entity-fee \$ 665.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in

the form of a corrected response to the Office Action (identify type of reply):☐ has been filed previously on _____☒ is enclosed herewith.

09/01/2004 MAHME1 00000069 09870078

B. The issue fee of \$ _____

☐ has been paid previously on 01 FC:2453

665.00 OP

☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

3. Terminal disclaimer with disclaimer fee

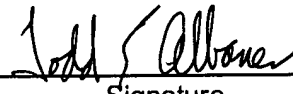
- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

August 27, 2004

Date



Signature

Telephone

Number: 214-220-0444

Todd E. Albanesi

Typed or printed name

Crutsinger & Booth, LLC

1601 Elm Street, Suite 1950

Address

Dallas, Texas 75201-4744

Address

Enclosures: ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unintentional delay☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

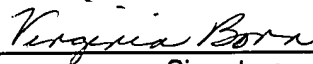
I hereby certify that this correspondence is being:

☒ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☐ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

August 27, 2004

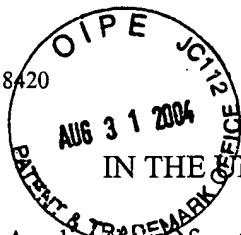
Date



Signature

Virginia Born

Type or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application Of: Charles D. Harris

Attorney Docket: RIAL-18420

Serial No.: 09/870,078

Group Art Unit: 3728

Filed: May 30, 2001

Examiner: Shian T. Luong

For: **DISC-MEDIA STORAGE CASE AND
PRINTED-MEDIA STORAGE TRAY**

Petition to Revive Unintentionally Abandoned Application

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant petitions to revive U.S. patent application Serial No. 09/870,078. In compliance with 37 C.F.R. § 1.137:

1. Applicant hereby provides a "Corrected Response to the Final Office Action of May 14, 2003," which corrects a minor matter of form in dependent claims 83 and 89.
2. Applicant submits the petition fee as set forth in 37 C.F.R. 1.17(m).
3. Applicant states that the entire delay in filing the required reply from the due date for the reply until the filing date of a grantable petition pursuant to paragraph 1.137 was unintentional.
4. A terminal disclaimer is not required because this application was filed after June 8, 1995.

STATEMENT OF FACTS

In support of this petition, the chronology of events leading to the unintentional abandonment of the application is as follows.

On May 14, 2003, the Examiner issued a final Office Action stating that independent claims 4-6 were allowed, that claims 1-3, 10, 63, and 65-67 (including multiple dependent claims) were rejected, and that claims 53, 54, 64, 68-69 (all multiple dependent claims based on independent claims 1-3) were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

On November 14, 2003, Applicant filed a bona-fide "Response to the Final Office Action of May 14, 2003," together with a Request for Extension of Time. The stated purpose of the response was "to amend the application to place the allowable subject matter in condition for allowance." (Response filed November 14, 2003, p. 1.)

On June 22, 2004, Applicant sent a follow-up inquiry to the PTO, stating that:

On May 14, 2003, the Examiner mailed a Final Office Action for the referenced patent application. The Applicant mailed its reply thereto on November 14, 2003 by express mail. To date, the response to the Final Office Action has not been received by the Examiner [sic: Applicant], therefore, Applicant is enclosing a copy of its reply including a copy of the return receipt postcard indicating that the Response was received at the U.S. Patent and Trademark Office on November 14, 2003 and a copy of the check issued in payment of the extension of time filing fee showing the check cleared our account on November 21, 2003.

Applicant believes all requirements of the Final Office Action have been met and respectfully requests consideration of its reply thereto. If a telephone interview will expedite this matter, please contact Todd Albanesi at 214-220-0444.

On August 3, 2004, the Examiner issued an Advisory Action refusing to enter the proposed amendments, explaining on a continuation sheet:

NOTE: claim 83 is depending from claims 80-82 while claim 89 is depending from claims 86-88. The claims are indefinite because it is not clear which claim the dependent claims 83 and 89 are depending upon. For example, are the claims depending from any one of the claims listed above?

The obvious correction to the proposed amendment would be in claim 83 to insert the words “any one of” before “claims 80-82” and in claim 89 to insert the words “any one of claims [claim]” before “86-88”. This minor editorial correction would place the application in condition for allowance. The minor editorial correction to place the application in condition for allowance is supported, for example, by: (a) the fact that the original claims were in multiple dependent form; (b) the fact that the stated purpose of the Response was to simply place the allowable subject matter in condition for allowance; and (c) the remarks to the Response expressly stated with respect to claim 89 that it was intended to be “multiple dependent on Claims 86-88.” (Response filed November 14, 2003, p. 1 and p. 19.)

On Monday, August 9, 2004, Applicant’s attorney received the Advisory Action. Applicant observed that the final Office Action had indicated the Examiner worked part time, normally being reachable “T-F from 7:00 am to 4:00 pm EST.”

On Tuesday, August 10, 2004, Applicant tried to reach the Examiner during business hours and left a voice-message for the Examiner regarding the Advisory Action, and left three more message during the course of the week.

On Tuesday, August 17, 2004, the Examiner returned Applicant’s messages, explaining that she had been on vacation the previous week. Applicant informed the Examiner that the Advisory Action appeared to work a needlessly harsh abandonment of the application and requested her help to resolve this matter. The Examiner was sympathetic and explained that she had not tried to call Applicant to correct the minor matter by Examiner's amendment because she had been working on the file on a Saturday. The Examiner called back again that same day to suggest the Applicant file a petition to revive the application explaining the circumstances.

Meanwhile, Applicant’s attorney had intensive litigation matters to attend to until Friday, August 20, 2004, including a major “Markman” brief due and travel to an out-of-town hearing in separate patent cases on that same day. Applicant’s attorney was out of the office for a previously scheduled personal day on Monday, August 23, 2004, and considered the facts and

prepared this petition on August 24-26, 2004, among other business and client obligations, to have it ready for filing via Express Mail by August 27, 2004.

ARGUMENT

Applicant respectfully submits that it made a bona-fide effort to make a complete reply to the final Office Action to place the allowable subject matter in condition for allowance as required by the Examiner. The reply filed on November 14, 2003 included numerous allowable claims with only a minor typographical error in the format of two multiple dependent claims.

Application petitions for the revival of the unintentionally abandoned application and entry of the "Corrected Response to the Final Office Action of May 14, 2003" submitted herewith, which corrects the minor matter of form in dependent claims 83 and 89.

The Commissioner is authorized to charge any additional fees or credit any refund to Deposit Account 50-5037. A duplicate copy of this authorization sheet is enclosed for this purpose.

DATED: August 27, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to MAIL STOP PETITION, COMMISSIONER FOR PATENTS, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450 on:

August 27, 2004
Date of Deposit

Todd E. Albanesi
Name of Applicant, Assignee or Registered Representative

Todd E. Albanesi
Signature

August 27, 2004
Date of Signature

Respectfully submitted,

Todd E. Albanesi
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